IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2878 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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GSRTC

Versus

LIMBABHAI RAMBHAI KOLI (SURANI

Appearance:

MRS VASAVDATTA BHATT for Appellant

MR KISHOR M PAUL for Respondent No. 1

RULE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 14/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. This court had issued notice to the respondents for summary disposal of the present appeal. Accordingly respondent no.1-original claimant has filed appearance.

2. Heard the learned counsel for the respective parties. Appeal admitted. Mr. Kishore M. Paul waives service of notice in the appeal on behalf of respondent no.1. On a joint request of learned counsel this appeal is taken up for final hearing today.

3. This is an appeal under section 173 of the Motor Vehicles Act, 1988 at the instance of the Gujarat State Road Transport Corporation, which is the owner of the vehicle which had caused the accident, and led to the claim filed by the respondent under section 166 of the said Act. The appellant herein challenges the award passed by the Motor Accident Claims Tribunal (Main) at Rajkot, in Motor Accident Claim Petition No.520/97, whereby the Tribunal had awarded to the claimant compensation in the sum of Rs.3,95,000/-, but had determined the liability of the appellant at Rs.3,16,000/- inasmuch as the original claimant was also partly responsible for the accident.

4. We have heard the learned cousnel for the respective parties on their respective submissions, and with their assistance we have carefully perused the impugned judgement and award. We have also referred to such evidentiary material on record to which our attention has been drawn.

5. As a result of the hearing and discussion, learned counsel for the respective parties have narrowed their differences in respect of the controversy raised in the present appeal on the aspect of just and appropriate compensation which may be due to the respondent-original claimant.

6. Learned counsel for the respective parties have arrived at a consensus on the basis of which they have requested the court to determine the just and appropriate compensation which may be due to the claimant, without assigning reasons therefor.

7. As a result of this exercise we are of the opinion that the compensation awarded to the claimant by the Tribunal is slightly on the higher side. In the context of the material on record and the facts established before the Tribunal, we are of the opinion

that the respondent-original claimant shall be entitled in the aggregate to a compensation of Rs.2,76,000/- (as against the figure of Rs.3,16,000/- awarded by the Tribunal) with proportionate costs. The claimant shall also be entitled to interest at the rate of 12% per annum from the date of claim till realisation.

8. It is clarified that the impugned award is modified only to the aforesaid extent.

9. The appeal is, therefore, partly allowed with no order as to costs. Decree accordingly.

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